

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7874 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

MEENABEN VIJAYBHAI RANA

Versus

COMMISSIONRE OF POLICE

Appearance:

MR NM KAPADIA for Petitioner

MR. Nigam Shukla, Addl. G.P.for the respondents.

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 08/11/96

ORAL JUDGEMENT

This petition has been filed by the wife of the detenu. This Special Civil Application is directed against the order dated 1.8.1996 passed by the Police Commissioner, Surat City whereby the detenu has been detained under the Gujarat Prevention of Anti Social Activities Act, 1985. The detenu is under

detention lodged at District Jail, Jamnagar.

This Special Civil Application was filed on 14.10.1996 and on 15.10.1996 rule returnable was issued. So far neither any reply has been filed nor affidavit of the detaining authority has been filed.

The grounds of detention enclosed with the detention order show that 5 criminal cases for the offences under the Bombay Prohibition Act were registered against the detenu. Besides this, the detaining authority has taken into consideration the statements made by 3 witnesses regarding the incidents dated 5.7.1996, 28.6.1996 and 1.6.1996. The detenu has been found to be engaged in anti-social activities and unauthorised business of liquor. He has been detained by the detaining authority as a bootlegger.

The detention order has been challenged on more than one grounds but the learned counsel has stressed that no case of breach of public order is made out.

In view of the decision of this Court rendered on 4.10.1996 in Special Civil Application No. 3879 of 1996 it is clear that the allegations and material relied upon by the detaining authority against the detenu do not constitute a case of breach of public order. At the most it is a case of breach of law and order. The detention order deserves to be set aside on this ground alone.

Accordingly the Special Civil Application is allowed and the impugned detention order dated 1.8.1996 passed by the Police Commissioner, Surat City, is hereby quashed and set aside and the detention is declared to be illegal. The respondents are directed to release the detenu and set him at liberty forthwith, if not required in any other case. Rule is made absolute.

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